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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

Cannon 122-110-69

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on April 23, 2009

Signature

Typed or printed name William R. Thomas

Application Number

09/880,151

Filed

06/13/2001

First Named Inventor

Joseph Cannon

Art Unit

2617

Examiner

Willie J. Daniel, Jr.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒

attorney or agent of record.

Registration number 62,500

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attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34

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Telephone number

April 23, 2009

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☐

*Total of forms are submitted.

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Inventors: Cannon et al.

Application No.: 09/880,151
Group Art Unit: 2617
Filing Date: 06/13/2001
Examiner: Willie J. Daniel, Jr.
Confirmation No.: 7432
Attorney Docket No.: Cannon 122-110-69
Title of Application: Adaptive Paging Signal in Cordless Telephone

* * * * *

Certification Under 37 CFR 1.8

Date of Deposit April 23, 2009

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WILLIAM R. THOMAS
(Name of person mailing)

William R. Thomas
(Signature of person mailing)



REMARKS AND ARGUMENT

Claims 1, 5-7, 23, 31, 33-37 and 39-45 are pending in the application. There are no prior or pending appeals, judicial proceedings or interferences known to the appellant that may be related to, or that is directly affected by, or that has a bearing on the panel's decision in the subject pre-appeal review.

Claim Rejections – 35 U.S.C. §103(a)

Claims 1, 5-7, 23, 31, 33-37 and 39-45 are rejected in the Final Office Action dated March 9, 2009 (hereinafter "Office Action").

Claims 1, 6 and 7

On page 2 of the Office Action, the Examiner rejected claims 1, and 6-7 under 35 U.S.C. 103(a) as being unpatentable over Inagami (US 4,884,294) in view of Applicant's Admitted Prior Art (Detailed Description, page 6, lines 5-12).

Claim 1 recites:

the paging mechanism and alerting mechanism are for use in locating a missing handset . . . **affect a characteristic of a page alerting signal . . . based on a condition wherein the condition is a measured quality of a communication channel between the base unit and the handset and the measured quality of the condition is related to a distance between the base unit and the handset** [emphasis added].

Thus, claim 1 is directed to adjusting a page alerting signal based upon a condition related to a distance between the base unit and the handset. Consequently, for example, the location of the handset from the base unit might be determined by the relative quality of the page alerting signal since the page alerting signal characteristic is varied based upon the distance from the base unit. However, Inagami does not teach or suggest affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base unit and the handset to locate the missing handset, as recited in claim 1.

Inagami describes a paging function that affects two levels of volume, namely based upon whether a person is talking into the cordless phone handset or not talking into the cordless phone handset when the handset is being paged. (Inagami, col. 5, lines 55-57 and col. 5, line 67 – col. 6, line 3). When a person is talking into the cordless phone handset, the sound generated is low, because the person using the cordless phone is near the cordless phone handset. Congruently, when a person is not talking into the cordless phone handset, the sound generated is high, because a person may not be near to the cordless phone handset. Thus, Inagami at best discloses adjusting a page alerting signal level based upon a predicted distance between the cordless handset and a person.

Applicant respectfully disagrees with the Examiner's characterization of Inagami, for example, on page 24 of the Office Action. Specifically, as described above, Applicant disagrees with the Examiner's assertion that the page alerting signal level of Inagami is adjusted based upon an estimated distance between the cordless handset and the base unit. Further, while the Examiner states that the features relied on by the Applicant are not recited in the claims, claim 1 recites "a page adjusting mechanism to affect a characteristic of a page alerting signal . . . based on . . . a measured quality of a communication channel between the base unit and the handset and the measured quality of the condition is related to a distance between the base unit and the handset." Thus, as argued by Applicant, claim 1

recites that the page alerting signal level of Inagami is adjusted based upon an estimated distance between the cordless handset and the base unit.

As the Examiner notes, and as stated in Applicant's Admitted Prior Art (Detailed Description, page 6, lines 5-12), measuring the quality of the communication channel between a base unit and a handset was known in the art. Further, it was known in the art that quality of the communication channel is related to the distance between the base unit and the handset. However, it was not known in the art to adapt the measured quality of the communication channel between the base unit and the handset to adjust a page alerting signal level. The recognition by the Applicant of a problem in the prior art cannot be used against the Applicant to support a conclusion of obviousness. See, e.g., *In re Dow Chemical Co.*, 837 F.2d 469, 472, 5 USPQ2d 1529, 1531 (Fed. Cir. 1988) ("[A] patent applicant's statement of the purpose of the work [in the specification] is not prior art.").

If the prior art does not contain even a suggestion of the specific modifications that are needed to be made to the teachings of the prior art to yield the claimed invention, then a rejection on the grounds of obviousness based solely on the advantages provided by that claimed invention is an improper use of hindsight. See, e.g., *In re Fritch*, 972, F.2d 1260, 1266, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992) ("[I]t is impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious . . . This court has previously stated that '[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.'"); *Texas Instruments Inc. v. U.S. Int'l Trade Comm'n*, 988 F.2d 1165, 1178, 26 USPQ2d 1018, 1029 (Fed. Cir. 1993).

Therefore, for the reasons set forth above, the Applicant submits that claim 1 is allowable of the cited prior art. Claims 6 and 7, while not identical to claim 1, include similar limitations as claim 1. Thus, Applicant submits that claims 6 and 7 are also allowable over the cited prior art for at least the reasons set forth above with regard to claim 1.

Claim 5

On page 8 of the Office Action, the Examiner rejected claim 5 under 35 U.S.C. 103(a) as being unpatentable over Inagami in view of Applicant's Admitted Prior Art (Detailed Description, page 6, lines 5-12) and Tozawa et al. (US 5,198,800).

Claim 5 contains a similar limitation as claim 1, namely, adjusting a page alerting signal based upon a condition related to a distance between the base unit and the handset. However, Tozawa fails to disclose this limitation for at least the reasons set forth above with regard to claim 1.

Tozawa describes an alarm that alerts a worker close to a machine whether they are very close (alarm intermittence short), near (alarm intermittence long), or far (no alarm). However, Tozawa only really gives two indications, similar to Inagami, that the transceiver is in one of two positions (a coarse distance estimate), and does not really give information that can be related to a particular distance (a fine distance estimate). Further, Tozawa does not describe affecting a characteristic of the alerting signal based upon a condition that is a measured quality of a communication channel between a base unit and a handset. Consequently, Tozawa does not teach or suggest affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base unit and the handset, as recited in Applicant's amended claims.

Therefore, neither Inagami nor Tozawa, whether taken alone or in combination with other cited references, discloses or suggests all of the elements of Applicant's claim 5, namely, affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a

communication channel between the base unit and the handset related to a distance between the base unit and the handset.

Claims 23, 39-41

On page 11 of the Office Action, the Examiner rejected claims 23, 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inagami in view of Applicant's Admitted Prior Art (Detailed Description, page 6, lines 5-12) and Dennerlein et al. (US 5,117,504).

Claim 23 contains a similar limitation as claim 1, namely, adjusting a page alerting signal based upon a condition related to a distance between the base unit and the handset. However, Dennerlein fails to disclose this limitation for at least the reasons set forth above with regard to claim 1.

Dennerlein describes signal delay measurements related to distance in a wireless environment, but does not describe using an alerting signal to locate the mobile radio set. Consequently, Dennerlein does not teach or suggest affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base unit and the handset to locate the handset, as recited in Applicant's claims.

Claims 31, 34-37

On page 14 of the Office Action, the Examiner rejected claims 31 and 34-37 under 35 U.S.C. 103(a) as being unpatentable over Ohayon (US 5,952,918) in view of Hardouin (EP 0876040).

Claims 31 and 34 contain a similar limitation as claim 1, namely, adjusting a page alerting signal based upon a condition related to a distance between the base unit and the handset. However, Ohayon and Hardouin fail to disclose this limitation for at least the reasons set forth above with regard to claim 1.

Ohayon describes producing a sound or light from a remote unit when a recovery button is pressed. Ohayon only describes pressing a button at a base unit to produce an indication at the remote unit, and does not give any other indication useful as a fine distance estimate for locating the unit, especially when the unit is located far away. Therefore, Ohayon simply describes that which was known in the art, as described and distinguished in Applicant's Specification in the Background of the Invention, page 2, line 9, to page 3, line 2. Consequently, Ohayon does not disclose or suggest affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base unit and the handset to locate the missing handset, as recited in Applicant's claims.

Hardouin describes automatic volume adjustment for ringer and voice volumes in a wireless handset based upon the level of background or ambient noise at the location of the base unit. Hardouin does describe adjusting the volume level based on received signal strength, but does not describe using an alerting signal to locate the unit. Hardouin further does not disclose or suggest affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base unit and the handset to locate the missing handset, as recited in Applicant's claims.

Neither Ohayon nor Hardouin, whether taken alone or in combination with other cited references, discloses or suggests all of the elements of Applicant's claims 31 and 34-37, namely, to locate the missing handset, affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base unit and the handset.

Claim 33

On page 18 of the Office Action, the Examiner rejected claim 33 under 35 U.S.C. 103(a) as being unpatentable over Ohayon in view of Hardouin and Benvenuti (US 6,166,652).

Claim 33 contains a similar limitation as claim 1, namely, adjusting a page alerting signal based upon a condition related to a distance between the base unit and the handset. However, Ohayon, Hardouin and Benvenuti fail to disclose this limitation for at least the reasons set forth above with regard to claim 1.

Benvenuti describes varying duration and tonal quality of a signal, but does not describe using an alerting signal to locate a unit. Consequently, Benvenuti does not disclose or suggest affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base unit and the handset to locate the handset, as recited in Applicant's claims.

Claims 42-45

On page 20 of the Office Action, the Examiner rejected claims 42-45 under 35 U.S.C. 103(a) as being unpatentable over Inagami in view of Applicant's Admitted Prior Art (Detailed Description, page 6, lines 5-12) and Alvarez et al. (US 5,805,667).

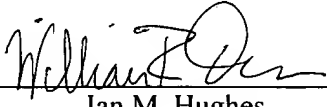
Claim 42 contains a similar limitation as claim 1, namely, adjusting a page alerting signal based upon a condition related to a distance between the base unit and the handset. However, Alvarez fails to disclose this limitation for at least the reasons set forth above with regard to claim 1.

Alvarez describes an apparatus for range testing of cordless communications devices, and more specifically describes simulating increasing distance between cordless communications devices by increasing signal attenuation in the test apparatus. However, Alvarez does not disclose or suggest affecting a characteristic of the page alerting signal based upon a condition that is a measured quality of a communication channel between the base unit and the handset related to a distance between the base unit and the handset to locate the handset, as recited in Applicant's claims.

In summary, the Applicant, by adjusting a page alerting signal based upon a condition related to a distance between the base unit and the handset, produce paging signal that might be louder when the handset is farther away from the base unit, which facilitates locating the handset. In contrast, Inagami discloses a paging function that affects two levels of volume, namely based upon whether a person is talking into the cordless phone handset or not talking into the cordless phone handset when the handset is being paged. The other cited references similarly fail to disclose elements of Applicant's claims, as described above. Therefore, in view of the above remarks, Applicant respectfully submits that claims are allowable over the cited references.

Respectfully submitted,

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